

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA

Plaintiff,

and

NATURAL RESOURCES DEFENSE
COUNCIL, INC. and SIERRA CLUB

Proposed Intervenor-Plaintiffs,

v.

DTE ENERGY COMPANY, and
DETROIT EDISON COMPANY

Defendants.

Case No. 2:10-cv-13101-BAF-RSW

Honorable Bernard A. Friedman

STIPULATION REGARDING CLAIMS OF PROSPECTIVE INTERVENORS

Defendants DTE Energy Co. and Detroit Edison Co. (collectively "Defendants") and prospective intervenors Natural Resources Defense Council, Inc. ("NRDC") and Sierra Club (collectively "Citizen Groups") agree and stipulate as follows:

1. Plaintiff, the United States of America ("Governmental Plaintiff"), filed its Complaint in this environmental enforcement action on August 5, 2010. That Complaint concerns conduct or events related to one coal-fired, electricity-generating unit situated at Defendants' Monroe Power Plant in Monroe, Michigan. The Complaint alleges violations of:

- (i) the Prevention of Significant Deterioration provisions of the federal Clean Air Act ("CAA" of "the Act"), 42 U.S.C. § 7470-92, and the PSD provisions of the Michigan SIP; and

- (ii) Nonattainment New Source Review (“NSR”) provisions of Part D of Title I of the Act, 42 U.S.C. §§ 7501-7515, and the implementing regulations.

2. On September 28, 2010, the Prospective Intervenor Citizen Groups sought leave to intervene to file a separate complaint against DTE. Doc. No. 34. That complaint purports to assert the same claims for relief as the Governmental Plaintiff.

3. The PSD and Nonattainment NSR claims for relief alleged in the proposed complaint of the Prospective Intervenor Citizen Groups assert violations of the sections of the CAA and Michigan SIP that are asserted as the basis for the PSD and Nonattainment NSR claims alleged in the Complaint of the Governmental Plaintiff. The PSD and Nonattainment NSR claims alleged in the proposed complaint of the Prospective Intervenor Citizen Groups are the same PSD and Nonattainment NSR claims alleged in the Complaint of the Governmental Plaintiff. In this action, the Prospective Intervenor Citizen Groups assert no statutory, regulatory, or other claims for relief beyond those asserted by the Governmental Plaintiff. The Prospective Intervenor Citizen Groups, however, expressly reserve their right to request different relief for their claims than the relief requested by the Governmental Plaintiff, *see* Fed. R. Civ. P. 8(a)(3), and DTE reserves its right to oppose any such request.

4. Premised on these stipulated procedural facts, and so long as (i) these procedural facts remain accurate and (ii) the Prospective Intervenor Citizen Groups confine their asserted claims for relief as set forth above in Paragraphs 1, 2, and 3, DTE does not and will not oppose their intervention as sought.

5. The Prospective Intervenor Citizen Groups reserve the right to amend or supplement their complaint consistent with Fed. R. Civ. P. 15, the Local Rules of this Court, or any order issued by this Court. DTE reserves the right to oppose any such effort to amend or supplement the referenced complaint.

6. Counsel for the Prospective Intervenor Citizen Groups and Defendants have conferred with counsel for the Governmental Plaintiff regarding its position on the motion to intervene as Plaintiffs. Counsel for the Governmental Plaintiff has indicated that it does not oppose the Citizen Groups' motion.

The parties identified in the opening paragraph above and listed with their counsel below SO STIPULATE.

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